



03 September 2008

CUSTOMS ADMINISTRATIVE ORDER

No. 6-2008

SUBJECT: Bulk and Break Bulk Cargo Clearance Enhancement Program

Pursuant to Sections 1402 and 1403 in relation to Section 608 of the Tariff and Customs Code of the Philippines (TCCP), as amended, and R.A. 8792 otherwise known as the Philippine E-Commerce Act, the following rules are hereby promulgated.

1. Objectives

- 1.1. To establish an advance clearance system for bulk and break bulk cargoes in accordance with the objectives of the World Customs Organization International Convention on the Simplification and Harmonization of Customs Procedures otherwise known as the Revised Kyoto Convention.
- 1.2. To facilitate the assessment of bulk and break-bulk cargoes by enhancing the capability of the Bureau of Customs in cargo surveying by harnessing available technical support at no cost to the government.
- 1.3. To obtain and secure critical information required for the proper inspection, classification, and valuation of bulk and break-bulk cargoes using measures compliant with customs international best practices and global trade standards.
- 1.4. To define the responsibility, accountability and liability of accredited surveying companies/surveyors under the accreditation program.
- 1.5. To protect and maximize revenue collection by ensuring the correct assessment of duties and taxes on bulk and break-bulk cargoes.

2. Definition of Terms

2.1. **Surveying Company** – Refers to a reputable company with an international office network in all countries supplying imported articles to the Philippines and engaged in the business of cargo surveying of shipments.

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2.2. Accredited Cargo Surveying Company – A surveying company possessing a duly approved accreditation issued by the Bureau of Customs.

2.3. Committee for Accreditation of Cargo Surveying Companies (CACSC). – A Committee of Bureau of Customs Officers tasked and authorized to grant and approve accreditation of cargo surveying companies/surveyors and periodically review the performance thereof. CACSC may also investigate violations of the provisions of this Order and thereafter recommend suspension and/or revocation of accreditations to the Commissioner of Customs, if needed.

2.4. Bulk Cargo – Refers to cargoes in a mass of one commodity not packaged, bundled, bottled or otherwise packed; those cargoes (dry or liquid) which are loaded (shoveled, scooped, forked, mechanically conveyed or pumped) in volume directly into a vessel's hold or cargo that is unbound as loaded; without count in a loose unpackaged form.

2.5. Break-Bulk Cargo – Refers to non-containerized general cargo stored in boxes, bales, pallets or other individual units to be loaded onto or discharged from vessels. Those cargoes loaded individually and described in terms of quantity and weight, (e.g. steel coils, logs, sacks of rice) and not in shipping containers nor in bulk as with oil or grain.

2.6. Bulk/Break-Bulk Cargo Surveying – Refers to the inspection, analysis and/or computation of bulk or break-bulk cargo for the purpose of determining the correct dutiable weight, quantity, description of goods in tariff terms, and/or cargo make or quality.

2.7. Customs Survey Inspectors (CSI) – Refers to organic Bureau of Customs officers and personnel with special qualifications and technical training in cargo inspection and surveying and capable of rendering efficient and reliable survey or examination reports.

3. Coverage

3.1. Scope. All Philippine bound bulk and break-bulk cargoes/shipments loaded unto carrying vessels and which loading is customarily supervised or witnessed by marine cargo surveyors shall be covered by this Order.

4. Survey Reports

4.1. Need for Advance Submission of Surveyor's Report – In order to facilitate clearance of subject imported cargoes by the BOC, the Port Load Survey shall be submitted to the BOC in advance as prescribed in this order. For this purpose, it is preferred that such Port Load Survey shall be conducted only by BOC Accredited Cargo Surveying Companies. The Accredited Surveying Company shall be advised to submit Port Load Survey Reports in a secured electronic format and in accordance with the implementing rules and regulations herein after issued by the Commissioner of Customs.

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Such Port Load Survey Report shall be submitted and transmitted to the Management Information and System Technology Group (MISTG) which shall immediately disseminate copies to the Office of the Commissioner (OCOM), Assessment and Operations Coordinating Group (AOCG), Intelligence and Enforcement Group (IEG), Post Entry and Audit Group (PEAG), Customs Intelligence and Investigation Service (CIIS), Enforcement and Security Service (ESS), Port Operations Service (POS) and the Office of the District Collector of the Port of Destination. The MISTG shall be responsible and accountable for the data/survey report inventory, storage and security.

Accredited cargo surveying companies tasked to conduct the survey at the port of loading in the country of exportation shall be required to send electronic soft copies of the ship's loading survey report of the cargo bound for the Philippines not later than twelve (12) hours before arrival at the port of destination.

4.2. Non-compliance.- Survey reports and findings of non-accredited surveying companies/surveyors shall not have any bearing insofar as the determination of dutiable weight, volume, quality and description of imported articles are concerned, even if the services of said surveyor have been retained by either or both the shipper and the consignee.


Shipments without a Surveyor's Report or accompanied by Surveyor's Report from a non-accredited surveyor will be subject to a comprehensive cargo survey at the port of destination by a team of Bureau of Customs Survey Inspectors (CSI). No permit (general or special) to unlade shall be given unless the CSI shall have boarded the vessel and participated in the pre-discharging conference between and among the parties i.e., Ship's Officers (Master and/or the Chief Mate or Cargo Mate), Shore or Terminal Officers or representative/s of the Consignee/s, and their respective Cargo Surveyors.

The shipment shall remain under continuous underguarding from this time and until the:

- a) Completion of the examination or comprehensive cargo survey by the CSI determining the nature, description, quantity or volume, and other pertinent specifications of the cargoes/shipments;
- b) Submission by CSI of its examination report to the District Collector of the Port of Destination;
- c) Assessment and collection of the duties and taxes and other charges accruing on the shipment shall have been effected.

During this period, the District Collector concerned may direct such other actions as may be appropriate under the premises pursuant to the provisions of the TCCP. Copies of the Examination Report of the CSI shall likewise be submitted to Office of the Commissioner (OCOM), Assessment and Operations Coordinating Group (AOCG), Intelligence and Enforcement Group (IEG), Post Entry and Audit Group (PEAG), Customs Intelligence and Investigation Service (CIIS), Enforcement and Security Service (ESS) and Port Operations Service (POS).

All expenses incurred for the cargo survey under this section shall be borne and paid for by the importer, consignee or his agent pursuant to Section 3506 of the TCCP.

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4.3. Benefits for compliant importers- Shipments accompanied by a Surveyor's Report issued by Accredited Surveying companies may avail of the advance clearance procedures to be hereinafter provided in the implementing rules and regulations of this Order. In addition, upon prior consultation with the concerned private sector/s, CACSC may recommend to the Commissioner of Customs other benefits under this program that may be granted to compliant importers within the framework of the Tariff and Customs Code of the Philippines as amended (TCCP).

4.4. Requirement for Automation. Accredited surveying companies shall fully automate their processes and interface with e2m-Customs Systems within six (6) months from the date of accreditation. The MISTG shall monitor the compliance by accredited surveying companies with the automation of its process as required by this Order and may recommend sanctions for the consideration of the CACSC in case an accredited surveying company fails to implement the automation requirement within the prescribed period. Until full automation is attained, accredited surveying companies shall electronically send copies of the ship's loading survey report of the cargo bound for the Philippines within the period and manner as provided in Section 4.2 hereof.

4.5. Probative Value. The report and findings of accredited surveying companies shall be used by Customs Examiners/Appraisers in the determination of dutiable weight, volume, description, valuation and classification of imported articles, without prejudice to actual verification as the need arises.


5. Committee for Accreditation of Cargo Surveying Companies (CACSC)

5.1. Committee. A committee is hereby created hereinafter known as the Committee for Accreditation of Cargo Surveying Companies (CACSC) which shall be composed of:

- a. Deputy Commissioner for Assessment and Operations Coordinating Group (AOCG) – Chairman
- b. Deputy Commissioner for Management Information System and Technology Group (MISTG) – Vice Chairman
- c. Deputy Commissioner for Intelligence and Enforcement Group (IEG) – Member
- d. Deputy Commissioner for Revenue Collection Monitoring Group (RCMG) – Member
- e. Deputy Collector for Operations, POM – Member
- f. Deputy Collector for Operations, MICP - Member
- g. Deputy Collector for Operations, Batangas - Member
- h. Representative from the Office of the Commissioner – Member
- i. Port Operations Service (POS) Director, Member

5.2. Functions of the CACSC. The CACSC shall have the following powers and functions:

- a. To grant and approve the accreditation of Cargo Surveying Companies/Surveyors and the renewal of the same upon its expiration upon application;
- b. To monitor and periodically review the performance of Accredited Surveying Companies/Surveyors through the POS;

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- c. To recommend the suspension or revocation of accreditations to the Commissioner of Customs.
- d. To perform such other functions relative to its creation and in accordance with the provisions of this Order.
- e. To consult with the private sector on a regular basis.

5.3. Required Voting. No application for accreditation shall be approved or disapproved without the consent of a majority of members present in a meeting duly called for such purpose.

5.4. Administrative Support. The CACSC shall be assisted and supported by the Port Operations Service (POS) which shall receive, process, and recommend all applications for accreditation and renewal of accreditation of surveying companies for consideration and approval by the Committee.

5.5. Period to Approve Application. The CACSC shall grant or approve all applications for accreditation within fifteen (15) days from receipt of said application with complete supporting documents from the POS Secretariat.

5.6 Port Operation Service (POS) Allied Functions. The POS shall likewise be responsible for the following matters for and in behalf of the CACSC:

- a. To monitor and periodically review the performance of Accredited Surveying Companies/Surveyors and recommend the suspension or revocation of the same to the CACSC after due notice and hearing;
- b. To keep an updated record of all accredited Surveying Companies including the pertinent documents required by the grant of accreditation;
- c. To have custody, storage and maintenance of all data/survey reports;
- d. To maintain a priority or rotation list of members of the CSI for assignment on a per mission order basis, whenever necessary;
- e. To perform such other functions as provided by the CACSC and in accordance with the provisions of this Order.


6. Requirements for Accreditation.

6.1. Application Fee. An application non-refundable processing fee of PhP50,000.00 shall be paid upon the filing of the request for accreditation.

6.2. Accreditation Fee. A one-time accreditation fee of PhP 200,000.00 and an annual fee of PhP 50,000.00 for the second year and third year shall be paid upon approval of the accreditation for which a BOC Official Receipt shall be duly issued evidencing payment thereof. Non-payment of accreditation fee within fifteen (15) calendar days from receipt of the approval shall cause the cancellation of the accreditation. Subsequent applications shall be treated as new submissions subject to payment anew of the applicable fees.

6.3. Criteria for Surveying Companies. Applicants for accreditation must have the following basic qualifications:

- a. Minimum track record of ten (10) continuous years in international bulk and break-bulk cargo surveying.

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- b. Member in good and reputable standing of the International Federation of Inspection Agencies (IFIA).
- c. International office network in all countries of supply to the Philippines as shown in the updated company profile and organizational structure.
- d. Must possess and maintain the basic tools and implements needed in bulk and break-bulk cargo surveying and must have the competence and capability to conduct laboratory testing of cargoes for qualitative analysis either using its own or accredited laboratories.
- e. Must be capable of receiving and transmitting electronic instructions from authorized ship agents, importers or responsible customs officials.
- f. Must be able to issue reports and certificates in a secure electronic format.
- g. Must not have been blacklisted or its services terminated by any Government or international entity by final and executory judgement/order in the immediately preceding three (3) years, on the grounds of poor performance and/or irregularity in dealings, unless proven otherwise by competent and verifiable evidence as considered by the CACSC and duly approved by the Commissioner of Customs.
- h. Must be able submit a comprehensive Capacity Building Program for the Bureau of Customs' officials and personnel who will be directly involved in the implementation of this program.

6.4. Documentary Requirements for Surveying Companies. The following documentary requirements, among others, shall be submitted before any application for accreditation shall be processed:

- a. Certified copy of Articles of Incorporation or Certificate of Registration;
- b. Mayor's Business Permit;
- c. Certified list of not less than twenty (20) regular clients-importers and exporters for the last three years immediately preceding the application;
- d. Certified Copy of its Audited Financial statements submitted to the Securities and Exchange Commission, Bureau of Internal Revenue or equivalent Office for the immediately preceding year;
- e. Certified and updated list of its Corporate Officers and surveyors;
- f. Duly issued Bureau of Internal Revenue Certificate of Registration;
- g. Authenticated Copies of the Membership Certificate issued by the International Federation of Inspection Agencies (IFIA);
- i. Certification under oath by a responsible official of the company that it has not been blacklisted or its services terminated by final judgement/order by any Government or international entity on the grounds of poor performance and/or irregularity in dealings in any country immediately preceding three (3) years. Should there be existing case/s pending against the applicant under the preceding grounds, a duly consularized certification from the blacklisting and/or terminating Government or international entity stating that the judgement/order has not become final and executory and that it

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is allowed to continue doing business therein pending the same, shall likewise be submitted;

- j. Certification under oath by a responsible official of the company that it has no pending administrative, civil or criminal cases in any court or venue in the Philippines; and
- k. Such other documents as maybe required by the Commissioner of Customs and the CACSC.

Internationally recognized and accepted equivalents of the above documents duly notarized by the Philippine Consular office concerned shall be considered acceptable.

The CACSC may employ any and all other means to ascertain the credibility, business standing, financial viability and operational capability of applicants, including the conduct of background investigation by third parties as directed by the Committee.

6.5. Annual Bond Requirement. All accredited cargo surveying companies shall be required to post an annual cash bond of One Million Pesos (PhP1,000,000.00) which shall stand as guarantee/security for any or all violations of the provisions of this Order and the undertakings as provided herein. The bond shall be constantly maintained at above-stated amount at any given time during the accreditation period. In cases where amounts are credited against the bond, it shall be the responsibility of the accredited surveyor to replenish the same within (ten) 10 days from date of transaction.

6.6. Effectivity of Accreditation. The accreditation of Surveying Companies/Surveyors shall be effective for a period of three (3) consecutive years, unless sooner revoked for cause.


6.7. Renewal of Accreditation. Applications for renewal of accreditation shall be filed not earlier than ninety (90) calendar days but not later than thirty (30) calendar days prior to the date of expiration of accreditation. A late filing fee of ten (10%) percent of the accreditation fee shall be imposed on applications received out of the prescribed period.

6.8. Non-renewal of Suspended/Revoked Accreditations. No application for renewal of accreditation shall be accepted in cases where the Certificate of Accreditation has been suspended or revoked for cause during the time it was subsisting, unless subsequently lifted by the Commissioner of Customs upon the favorable recommendation of the CACSC.

6.9. Binding Effect. All accredited surveying companies and its surveyors are bound by the provisions of this Order and the implementing Customs Memorandum Order which shall be issued by the Commissioner of Customs.

7. Miscellaneous Provisions

7.1. Confidentiality Clause. All accredited surveying companies shall submit a Service Level Undertaking and execute a Non-Disclosure Agreement in favour of and in such form as required by the Bureau of Customs. All information and/or data obtained by the accredited surveying company and any of its officers and employees in the performance of their surveying or any other activity incidental

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thereto shall be treated with utmost confidentiality, the unauthorized disclosure of which shall be subject to penalties and sanctions as determined by the CACSC in accordance with existing laws.

This section shall likewise apply to any BOC official or employee who obtains any information and/or data by virtue of this CAO or its implementing rules and regulations.

7.2. Violation/Penalties. Any violation of any of the provisions of this Order shall cause the suspension or revocation of the accreditation of the surveying company as the case may be after due administrative notice and hearing without prejudice to the filing thereafter of appropriate administrative, civil or criminal charges against erring cargo surveying companies/surveyors.

7.3 Sanctions for Bureau of Customs Personnel. In addition to the sanctions imposed under the TCCP, as amended, and Civil Service laws, rules and regulations, any Bureau of Customs official and/or employee found to have violated any of the provisions of this Order shall be immediately relieved and if warranted after due administrative notice and hearing, be transferred to another office or assigned to a less sensitive position in the Bureau.

7.4. Implementing Rules and Regulations. - The Commissioner of Customs shall issue the necessary Customs Memorandum Order (CMO) within fifteen (15) days from effectivity of this Order for the full and effective implementation of the same.


7.5. Separability. - If any portion or provision of this Order shall be deemed invalid and unconstitutional for any reason, the remaining portions, insofar as they can stand on their own, shall be given full force and effect.

7.6. Effectivity. - This Order shall take effect 15 days after its complete publication in a newspaper of general circulation.

NAPOLEON MORALES
Commissioner



Approved:


MARGARITO B. TEVES
Secretary of Finance

Date:

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